

# EXHIBIT E

UNITED STATES DISTRICT COURT

ORIGINAL

WESTERN DISTRICT OF NEW YORK

- - - - - X

MARK T. DUBLINO,

Plaintiff

-vs-

SGT. JUSTIN BIEGAJ, SGT. ROBERT DEE, DEPUTY

BRIAN THOMPSON, DEPUTY FRANK GELSTER,

SGT. MR. CROSS, SGT. MR. ROBINSON,

DEPUTY MR. P. GIARDINA, & DEPUTY SHAWN WILSON,

Defendants

- - - - - X

Case No. 19-CV-6269-DGL-MJP

Deposition of JACK ROBINSON taken remotely  
pursuant to notice on Thursday, June 10, 2021,  
commencing at 1:04 p.m.

Reported by:

COMPUTER REPORTING SERVICE

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8  
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(No exhibits marked.)

1 J. Robinson - Examination by Mr. Modica

2 JACK ROBINSON

3 called herein as a witness, being duly sworn,

4 testified as follows:

5 EXAMINATION BY MR. MODICA:

6 Q Good afternoon, Sergeant Robinson. My name  
7 is Steve Modica. I'm the pro bono counsel appointed to  
8 represent Mark Dublino in connection with an action  
9 he's brought against you and several other folks.

10 I'm going to ask you a series of questions. I'll  
11 ask you to answer them to the best of your ability. If  
12 you don't understand my question please feel free to  
13 ask me to rephrase it and I certainly will do that.

14 We're conducting this deposition by Zoom which is  
15 always a little bit more complicated and awkward, so I  
16 ask that you wait to respond until my question is done  
17 and I'll do my best and wait until you've completed  
18 your answer before I speak again.

19 Is that acceptable to you?

20 A Sure.

21 Q Sure. Okay. And, Sergeant Robinson, are you  
22 currently employed by the Jail Management Division of  
23 the Erie County Sheriff's Department?

24 A Yes.

25 Q And how long have you worked for them?

1 J. Robinson - Examination by Mr. Modica

2 A Twenty-three years.

3 Q And during 2018 were you working for them?

4 A Yes.

5 Q And where were you performing your work at  
6 that time?

7 A I was assigned to training.

8 Q But physically were you working at the Erie  
9 County Holding Center?

10 A Correct.

11 Q And were you working at the Erie County  
12 Holding Center on the morning of March 9th of 2018?

13 A Yes.

14 Q And what was your job assignment that day?

15 A Training.

16 Q And would you describe for me generally what  
17 your responsibilities were doing training on that day?

18 A Oh, I can't recall. I'm assigned to the  
19 training aspect. I do all the training for the Erie  
20 County Sheriff's Office out of the Jail Management  
21 Division and I also am an instructor at the Police  
22 Academy. So I have a various functions each day:  
23 Setting up people to go to training, attending  
24 training, putting together classroom training for all  
25 the officers, and I also do the peace officer training.

1 J. Robinson - Examination by Mr. Modica

2 So I have a full plate.

3 Q Does the training that you provide or  
4 provided in 2018 include training about how to handcuff  
5 someone?

6 A Yes.

7 Q All right. We'll talk more about that later  
8 certainly.

9 Do you recall did you have any interactions with  
10 Mark Dublino before March 9th of 2018?

11 A Yes.

12 Q Okay. Tell us about that. What do you  
13 recall about any of those interactions before March 9th  
14 of 2018?

15 A Prior to taking over the job as the training  
16 sergeant I was in charge of classification and that was  
17 the area that assigns all the inmates to their level  
18 due to their -- there's a series of factors that give  
19 them a level of classification. We try to keep apples  
20 with apples, oranges with oranges.

21 One night I was supervising a unit Mark Dublino was  
22 involved in a fight and then a few other times being in  
23 charge of classification I also did the disciplinary  
24 hearings so he came to me for maybe one or two  
25 disciplinary issues that he had in the facility.

1 J. Robinson - Examination by Mr. Modica

2 Q Anything about those disciplinary hearings  
3 stand out in your mind either in the content, the way  
4 he acted, anything like that?

5 A Well, the one he actually left our facility,  
6 went to Niagara County. He had something going on a  
7 case in Niagara County. He came back maybe two, three  
8 days -- I don't know the extent how long he was out of  
9 the building, but when he returned all the inmates that  
10 return to our facility get physically searched and in  
11 his shoe they found a shank made out of a plastic bowl.  
12 So he was written up for that and he came in front of  
13 me because I'm the disciplinary officer and he told me  
14 his story very agitated saying it wasn't his, but a day  
15 later in his property we found a bowl that had a crack  
16 in it that was exactly the shape of the shank he had in  
17 his sneaker or footwear.

18 Q And just so I understand better, when you say  
19 shank, what do you mean by that?

20 A It is an improvised or homemade weapon, say  
21 Tupperware bowl that he cracked a piece of plastic off  
22 almost to make it -- it had a very pointed edge. It's  
23 not going to slice anybody, but you can puncture  
24 somebody with the point that it had on it.

25 Q Do you recall whether you or anyone on behalf



1 J. Robinson - Examination by Mr. Modica  
2 of the County imposed any discipline for him regarding  
3 the shank episode?

4 A Oh, I'm sure I did. So --

5 Q Any recollection as you sit here as to what  
6 that was?

7 A He definitely got an order of SHU or keep  
8 lock unit. He would have done time up there. Without  
9 these records in front of me I don't know the amount of  
10 time he got.

11 Q And by SHU --

12 A Something like that --

13 Q Go ahead. I'm sorry.

14 A That is special housing unit.

15 Q Does that generally mean isolation of some  
16 sort?

17 A Yes.

18 Q Okay. So is it correct that you had some  
19 interaction with Inmate Dublino on March 9th of 2018?

20 A I arrived at the incident. I'm not sure --  
21 it's been so long. I'm not really sure what my -- I  
22 don't believe I -- other than supervising what was  
23 going on that was about it. I don't believe I had any  
24 contact with him.

25 Q I'll ask you a little bit more about that in

1 J. Robinson - Examination by Mr. Modica  
2 a moment, but are you aware or have you ever seen a  
3 video that shows at least part of the interaction  
4 between perhaps you and others in this case and  
5 Mr. Dublino outside the attorney conference room on  
6 March 9th of 2018?

7 A Yes.

8 Q And what I'd like to do is I'm going to show  
9 that video to you and what I'd ask you to do is if you  
10 see yourself at all in the course of the video if you  
11 could tell me so I could stop the video that would be  
12 very helpful just so I can identify you and your  
13 movement at least as shown in the video.

14 Is that acceptable to you?

15 A Yes.

16 Q All right. So -- all right. So, Sergeant  
17 Robinson, first of all, can you see the screen that  
18 I've shared?

19 A Yes.

20 Q Okay. And I'm going to hit the play button  
21 in just a second, but just for purposes of the record  
22 I'm showing you what's been marked in this case as  
23 Deposition Exhibit A.

24 MS. MOLISANI: I'm sorry. Are you able to  
25 make it any bigger, Steve?

1 J. Robinson - Examination by Mr. Modica

2 BY MR. MODICA:

3 Q You know, why don't I do this. Let me --  
4 yeah, because I want you to be able to see it. That's  
5 obviously important. So let me do this. Is that  
6 better?

7 A Yes.

8 Q Okay. Great. All right. So just for  
9 purposes of the record is it correct to say that this  
10 video that I'm showing you consists of four separate  
11 boxes so to speak?

12 Top left showing what's demarcated as the Alpha  
13 Hallway - first let's start with that - is that  
14 correct?

15 A Yes.

16 Q And then the box below it is designated as  
17 Attorney Visit Sallyport. Do you see that?

18 A Yes.

19 Q And across on the right side at the top of  
20 the screen a demarcation of Attorney Visit A, do you  
21 see that?

22 A Yes.

23 Q And then finally although no picture in that  
24 frame yet at the bottom right it's indicated that it's  
25 Attorney Visit B. Do you see that?

1 J. Robinson - Examination by Mr. Modica

2 A Yes.

3 Q Terrific. Okay. So I'm going to hit play.

4 If you could let me know as soon as you see yourself, I  
5 would appreciate that. All right.

6 And I'm going to start playing it now.

7 A Oh, there I am.

8 Q Okay. So I'm going to back up a little bit  
9 because I think I didn't stop this as quickly as I  
10 should have.

11 So first of all direct me to which of the four  
12 windows so to speak did you see yourself?

13 A I was in the Alpha Hallway the top left and  
14 then I'm just going in the door on the bottom left  
15 Attorney Visit Sallyport.

16 Q Okay. I'm going to back that up because I  
17 went a little far. I apologize for that.

18 So you tell me kind of when --

19 A Oh --

20 Q So let me move up a little.

21 A Okay. I am right there on the top.

22 Q Is this you right here?

23 A Yes.

24 Q Okay. So just for purposes of the record,  
25 we're looking at the video on the Alpha Hallway screen,

1 J. Robinson - Examination by Mr. Modica  
2 the timestamp on the video is ten twenty-two and  
3 forty-nine point three four one seconds a.m. and I  
4 believe the witness has indicated that he is present.

5 In this particular frame he is toward the wall  
6 about to go through the door, and fair to say, Sergeant  
7 Robinson, you are clean-shaven on your head, so is that  
8 you?

9 A Correct.

10 Q All right. And I'll continue with it through  
11 and if you could just try to trace your actions here  
12 that would be helpful. All right?

13 A Stop.

14 Q Okay.

15 A You've got to back it up.

16 Q Yep.

17 A Right there. Well, right --

18 Q Yeah. Sorry.

19 A You're going too far.

20 Q All right. So let's go back.

21 A That's not me.

22 Q Oh, that's not you. Okay. All right. So  
23 now I stopped it at ten twenty-two -- oh, that's not  
24 you, right?

25 The Attorney Sallyport, neither of those gentlemen

1 J. Robinson - Examination by Mr. Modica

2 depicted there are you, correct?

3 A Correct.

4 Q Okay. Sorry.

5 A Stop. You see the big guy in the bottom left  
6 coming through?

7 Q Yes. This right here?

8 A Yes. I'm going to be behind him.

9 Q You're going to be behind him. Okay. All  
10 right. So again we just were looking at the Attorney  
11 Visit Sallyport box of the video, correct?

12 A Yes.

13 Q Okay. All right. I'm going to -- so this is  
14 you right here, sir?

15 A Correct.

16 Q Okay. All right. So that's -- so again for  
17 purposes of the record we're focused on the Attorney  
18 Visit Sallyport box of the video and the witness has  
19 indicated he is coming through the door coming from the  
20 Alpha Hallway into the Attorney Visit Sallyport area  
21 and we stopped the screen at the time of ten twenty-two  
22 and fifty point two three six seconds on that day which  
23 is March 9th of 2018; is that correct?

24 A Correct.

25 Q All right. I'm going to continue back and

1 J. Robinson - Examination by Mr. Modica

2 feel free to just identify where you go and what you do  
3 next. Okay?

4 A Stop.

5 Q Okay. So --

6 A Upper right -- upper right Attorney Visit A  
7 you can see just the top of my head. I'm behind the  
8 guy you have -- there I am right there.

9 Q Right there. Okay. So this is -- all right.  
10 So just for purposes of the record we've stopped it on  
11 the Attorney Visit A box, we're looking at the pause in  
12 the time of ten twenty-two and fifty-five point one  
13 five six seconds a.m. on March 9th and the witness has  
14 indicated that he is seen to the right of the screen  
15 and I'm going to say second row would be a fair way to  
16 describe that?

17 A I'd go third.

18 Q Third. Okay. Yeah, that's probably correct.  
19 And again, is it one indication that we can identify  
20 that it's him is it appears to be a person with a  
21 shaved head.

22 All right. I'm going to continue to go --

23 A You don't have to continue. Before you go  
24 on, Attorney Visit B that's the back of my head at ten  
25 twenty-two fifty-five in the timestamp.

1 J. Robinson - Examination by Mr. Modica

2 Q Oh, okay. So is that right here which I'm  
3 circling?

4 A Correct.

5 Q You're standing up, right?

6 You're not -- there seems to be another gentleman  
7 with a shaved head that appears to be at a lower level.  
8 That's not you, correct?

9 A No, it is not.

10 Q Okay. I'm going to hit play again and please  
11 stop me as you'd like.

12 A I'm going to be in the video the rest of the  
13 time I would assume.

14 Q Okay. And so again --

15 A There's me the upper right now it looks I  
16 guess you could say the first row.

17 Q Okay. And again that would be for purposes  
18 of the record we're looking at the Attorney Visit A box  
19 and the witness has indicated that he is in the first  
20 row and we've stopped it at ten twenty-two and  
21 fifty-eight point nine six zero seconds.

22 And, Sergeant Robinson, do we also see the back of  
23 your head in the Attorney Visit B box?

24 A I would say it is closest to the door on the  
25 left-hand side of that bottom video looking forward.



1 J. Robinson - Examination by Mr. Modica

2 Q Correct. Okay. Thank you. And again just  
3 for purposes of the record that Attorney Visit B box is  
4 at the time of ten twenty-two and fifty-eight point  
5 nine seven three seconds a.m. again on March 9th, 2018.

6 Okay. I'm going to resume again. Now, it looks  
7 like -- I've paused it in the Attorney Visit A box of  
8 ten twenty-three and zero point nine six two seconds.  
9 Can you tell me are you visible or not visible at this  
10 time?

11 A No.

12 Q And do you recall what if anything may have  
13 made you not visible in the screen at this moment?

14 A No, not at this point.

15 Q Is it possible that you went to the floor or  
16 went to a lower level for some reason?

17 A Well, if they asked for handcuffs I may have  
18 reached into my back pocket to get my handcuffs so I  
19 would have lowered myself to hand them to him, but like  
20 I said, I can't recall.

21 Q Understood. And also in fairness the cameras  
22 that we're looking at now, those shots, there's parts  
23 of those that you can't see, you can't see everything  
24 from floor to ceiling; is that fair?

25 A In what I'm looking at now yes.

1 J. Robinson - Examination by Mr. Modica

2 Q And as far as you know the cameras, the  
3 images that we're seeing are not edited in any way, are  
4 they?

5 A I don't believe so.

6 Q Okay. I'm going to continue. Now I've  
7 stopped Attorney Visit A at ten twenty-three and four  
8 point nine six six seconds and there's a gentleman with  
9 his back to us also with a shaved head. Can you tell  
10 is that you, Sergeant Robinson?

11 A No, it is not.

12 Q Okay. Do you know who that is?

13 A I believe it was the first officer and he's  
14 wearing a sweater. That might be Deputy Thompson.

15 Q All right. And I'm going to play it again  
16 and if you can tell me if and when you reemerge at all  
17 that would be helpful.

18 A Stop. I'm not sure, bottom right the  
19 Attorney Visit B that I can't tell, but it could be me.  
20 I can't really -- there's -- there was a second officer  
21 down there also with I guess a clean-shaven head.

22 Q Okay.

23 A I can't see the sleeve if it's me or not.

24 Q Okay. And again just for purposes of the  
25 record the witness is referring to the box entitled

1 J. Robinson - Examination by Mr. Modica

2 Attorney Visit B and specifically at the time I paused  
3 it of ten twenty-three and eleven point nine eight six  
4 seconds.

5 And I'll ask you because we had some testimony,  
6 Sergeant Robinson, earlier in the case I believe Deputy  
7 Gelster was also in the area and I believe respectfully  
8 that he is clean-shaven on his head as well. Do you  
9 know whether that's Deputy Gelster?

10 A I cannot tell.

11 Q All right. I'm going to resume again and  
12 feel free to stop me.

13 A Okay. That's me.

14 Q Okay. So since we ran it further you were  
15 able to confirm that the person we've been looking at  
16 in Attorney Visit B the clean-shaven gentleman is in  
17 fact you?

18 A Correct.

19 Q And just for purposes of the record, the  
20 witness was able to confirm that once we stopped it at  
21 the Attorney Visit B window at the time of ten  
22 twenty-three and fourteen point seven eight nine  
23 seconds. Thank you for doing that.

24 All right. I'm going to resume again and then feel  
25 free to take me through any of your movements from

1 J. Robinson - Examination by Mr. Modica  
2 there.

3 A I have a question. If I don't leave the  
4 video do you need to keep having me say there I am,  
5 there I am, there I am?

6 Q No.

7 A Okay.

8 Q No, I mean, if we can see you. If you leave  
9 the visual I'd like to know, but otherwise if we've  
10 identified who you are, that's fine.

11 A Okay.

12 Q Okay. Now I've stopped it at the Attorney  
13 Visit B window at ten twenty-three and twenty-four  
14 point five zero zero seconds. It appears to be as if  
15 you are bent down in some fashion. Is that a fair  
16 characterization?

17 A Yes.

18 Q Okay. Any recollection as to what you were  
19 doing at that point?

20 A I can't -- again, I don't believe I touched  
21 the individual. So I must just be leaning over to make  
22 sure they're doing their job.

23 Q And can you tell who is to your left also  
24 kind of leaning down?

25 A Not right now. My head is blocking his face

1 J. Robinson - Examination by Mr. Modica  
2 or her face.

3 Q Understood. And again, I don't mean to  
4 suggest anything to the witness, but I believe that  
5 might be Sergeant Justin Biegaj, but you draw your own  
6 conclusion as we run the video forward.

7 A Okay.

8 Q But I think based on what we saw earlier it  
9 might be him.

10 A Okay.

11 Q Okay. I'm going to resume.

12 A Yes, that is Sergeant Biegaj.

13 Q Got it. I apologize for pronouncing his name  
14 improperly. Thanks.

15 All right. I'm going to resume. Again, let's  
16 bring it back a bit. All right. I have paused the  
17 Attorney Visit B window at ten twenty-three and  
18 thirty-three point three one two seconds and first I  
19 want to just confirm that the gentleman in the middle  
20 of the screen with his head shaven clean we believe is  
21 you, correct?

22 A Correct.

23 Q Okay. And I would say for the record it  
24 appears that your right hand is extended out, but I  
25 can't tell what if anything you're doing with your

1 J. Robinson - Examination by Mr. Modica

2 right hand. Can you tell?

3 A It looks like it's resting on the officer's  
4 shoulder.

5 Q And probably fair to say you can't tell which  
6 officer that would be?

7 A Correct.

8 Q And any sense or any recollection as to why  
9 you would put your hand on the officer's shoulder like  
10 in that fashion?

11 A I'm trying to observe what they're doing.

12 Q And again you feel like that picture shows  
13 you resting your hand on the officer, not on the  
14 inmate?

15 A Absolutely.

16 Q And I don't think -- in fairness I don't  
17 think we can see the inmate in this particular still,  
18 ten twenty-three thirty-three point three one two; is  
19 that correct?

20 A Correct.

21 Q Is it fair to assume though that the inmate  
22 is somewhere on the ground outside of the view of us in  
23 that particular screenshot?

24 A Yes.

25 Q Okay. I have paused the Attorney Visit B

1 J. Robinson - Examination by Mr. Modica  
2 window at ten twenty-three and fifty-eight point two  
3 three seven seconds and we see two gentlemen in kind of  
4 more of the left side of the screen, left middle if you  
5 will, both of whom have shaved heads. Which one is  
6 you?

7 A I'm the one closest to Sergeant Biegaj.

8 Q Right there?

9 A No. The second one.

10 Q The second one. Okay.

11 A Right there.

12 Q And who is this gentleman right behind you in  
13 the glasses?

14 A That looks like it's Deputy Wilson.

15 Q Wilson. Okay. All right. I'm resuming the  
16 video. All right. So now at this moment again we're  
17 looking at Attorney Visit B, ten twenty-four and one  
18 point two four zero seconds. Inmate Dublino is up.  
19 There is a deputy -- at least one deputy holding him,  
20 another gentleman with a clean-shaven head. Do you  
21 recognize that deputy?

22 A Well, maybe if he turns a little bit more.

23 Q Okay. All right. We certainly know that's  
24 not you, correct?

25 A Correct.

1 J. Robinson - Examination by Mr. Modica

2 Q And I'll represent to you that I believe that  
3 that's Deputy Frank Gelster, but obviously you'll draw  
4 your own conclusion.

5 All right. I'm going to resume. I've stopped it  
6 again. It's ten twenty-four and three seconds -- three  
7 point six four two seconds, and in the right side of  
8 the Attorney Visit B screen is Inmate Dublino and there  
9 is a gentleman directly behind him. Is that you?

10 A Correct.

11 Q Okay. And any recollection as to what you're  
12 doing at that point; are you having any physical  
13 contact with Inmate Dublino that you recall?

14 A Not that I'm aware of. That's Deputy Gelster  
15 in between me and Inmate Dublino.

16 Q Okay. And that's who I said a few moments  
17 ago I thought that person was that. You agree with  
18 that now?

19 A Yes.

20 Q Now it looks to me as if you're walking with  
21 the group down the hallway into the Attorney Sallyport  
22 area and would you just tell me to stop when you see  
23 yourself in the Attorney Sallyport area?

24 A Sure.

25 Q Are any of those gentlemen -- obviously I



1 J. Robinson - Examination by Mr. Modica

2 know we have Deputy Gelster. Is this you right here?

3 A No.

4 Q Is this you?

5 A No.

6 Q Okay.

7 A Stop.

8 Q Is that you?

9 A Yes.

10 Q Okay. All right. So we have paused at the  
11 Attorney Visit Sallyport window at ten twenty-four and  
12 forty point four four six seconds and the witness has  
13 indicated that he is depicted on the bottom right of  
14 the screen having already entered the sallyport, not  
15 the gentleman in the doorway about to come in; is that  
16 fair, sir?

17 A Correct.

18 Q And I'm resuming.

19 A Stop. Alpha Hallway I guess the center.

20 Q Is this you?

21 A No. Back up. No. Back up. There you go.  
22 Right there.

23 Q Right there. Okay. So we've got Alpha  
24 Hallway. Again at that point you look like -- it looks  
25 to me as if you're walking by yourself. It doesn't

1 J. Robinson - Examination by Mr. Modica

2 look like you have your hands on anybody.

3 Again, any recollection of where you're going at  
4 that point?

5 A They're probably taking him to medical.

6 Q Okay. What makes you think that?

7 A Because usually after something like this we  
8 take everyone to medical to be evaluated.

9 Q Okay. All right. I'm going to continue.  
10 And you've just left Alpha Hallway, again recollection  
11 is going toward medical?

12 A Well, that's -- I don't know if I got on the  
13 same elevator as he got on, but the elevator Inmate  
14 Dublino got on most likely would have been taking him  
15 to medical. The second elevator may have been  
16 following him to medical. I cannot recall. I do not  
17 recall where it went.

18 Q Okay. And then I believe that none of the  
19 remainder of the video depicts you in any way, but I'll  
20 let it run out and if you see anything that you want to  
21 tell me about please do that.

22 Okay. The video is complete so I'm going to stop.  
23 Was there anything that you wanted to comment on from  
24 the last pause until the end of the video?

25 A No.

1 J. Robinson - Examination by Mr. Modica

2 Q All right. And I thank you for your patience  
3 while I was going through that. I know it's a little  
4 tedious.

5 Best that you know is that video complete?

6 A Yes, to the best that I know.

7 Q Okay. Did you prepare any memoranda or use  
8 of force report about this incident?

9 A No.

10 Q Is there a reason why you didn't?

11 A Because I did not touch him.

12 Q And tell me about that generally, is it your  
13 understanding or is it the policy of the Erie County  
14 Sheriff that if a deputy or a sergeant has physical  
15 contact with an inmate that they're required to put  
16 something in writing about that?

17 A Correct. There will be a report and then a  
18 use of force report as well.

19 Q Tell me originally how were you made aware  
20 that there was a need for assistance outside of  
21 Attorney Conference Room 3 on March 9th?

22 A There was a call put out over -- a distress  
23 call put out over the radio with the location.

24 Q And that radio, is that the one that you were  
25 wearing on your body at the time?

1 J. Robinson - Examination by Mr. Modica

2 A Yes.

3 Q And is that commonly known as a 10-99 call?

4 A Yes.

5 Q Technically what does that mean?

6 A Officer needs assistance.

7 Q Does the jail have a code for an altercation  
8 between a person in custody and his lawyer for example?

9 A Not that I'm aware of.

10 Q And if you recall where were you when you got  
11 the 10-99 call on March 9th?

12 A I would assume my office. I don't know.

13 Q All right. And certainly we went through in  
14 detail what the video showed relative to your  
15 participation so to speak, your presence in the area.

16 At any point did you hear Inmate Dublino say  
17 anything, again from when you and the rest of the  
18 response team went there until you left his presence?

19 A I cannot recall.

20 Q Any indication whether Inmate Dublino  
21 resisted any of the orders of the deputies or the  
22 sergeants or anyone that gave him an order?

23 A That again I do not recall. I believe there  
24 was difficulty in handcuffing him because he would not  
25 put his hands behind his back, but that's -- you know,

1 J. Robinson - Examination by Mr. Modica  
2 again, I cannot recall.

3 Q All right. So you mentioned earlier that you  
4 are responsible for training, doing some training. So  
5 I want to ask you a little bit about that.

6 Is there a standard operating procedure as to how  
7 someone in custody is supposed to be handcuffed?

8 A Yes.

9 Q Could you explain that to me please?

10 A Their thumbs up, palms out, knuckles  
11 touching.

12 Q Okay. So I'm very inexperienced in this  
13 area. So I apologize. I'm going to ask you some silly  
14 questions.

15 But, first of all, is the person generally  
16 handcuffed with their hands in front of their body or  
17 behind their body?

18 A Behind their back.

19 Q Okay. Behind their back. And when they are  
20 behind their back are their palms facing out meaning  
21 away from the center of their body or in toward the  
22 center of their body?

23 A Out away from their body.

24 Q And is there a particular reason why that's a  
25 preferred way to handcuff someone?

1 J. Robinson - Examination by Mr. Modica

2 A So their hands, their palms are not facing  
3 each other and they can reach into their waistband or  
4 pocket area.

5 Q So it's in part for the safety hopefully of  
6 people like yourself and the other deputies in the  
7 jail?

8 A For all safety even including the I guess  
9 we'll call it this time a subject because this is how  
10 it's done pretty much across the board in Western New  
11 York.

12 Q Are there times when that preferred method of  
13 handcuffing someone isn't possible or isn't done?

14 A I don't believe so. Everyone has been  
15 trained to do that. The cuffs may not go on the proper  
16 way we'd like them to go on, but that would be about  
17 it.

18 Q Are you familiar with a concept that's called  
19 reverse handcuffing?

20 A No.

21 Q Okay. Are you aware of -- have you ever  
22 cuffed someone where their palms are facing in?

23 So we described before that it's behind their back,  
24 palms facing away from the center of their body.

25 Have you ever cuffed someone where their palms were

1 J. Robinson - Examination by Mr. Modica

2 facing toward the center of their body?

3 A I have not.

4 Q Okay. Any indication whether Inmate Dublino  
5 was cuffed in different ways during the incident on  
6 March 9th of 2018?

7 A I am not.

8 Q I think just to confirm, it's your testimony  
9 that you had no physical contact with Inmate Dublino on  
10 March 9th of 2018; is that correct?

11 A Yes.

12 Q All right. At any point do you recall  
13 whether you heard Mr. Terranova who claimed he was  
14 assaulted by Inmate Dublino say anything?

15 A No.

16 Q There's an allegation that Mr. Terranova said  
17 someone kicked his ass, meaning kicked Mr. Dublino's  
18 ass. Any recollection of any comments by Mr. Dublino  
19 like that or anything else?

20 A No.

21 Q When Inmate Dublino was taken to the  
22 infirmary is there a camera set up that would show once  
23 he left Alpha Hallway going toward the infirmary, do  
24 you know?

25 A There should be a camera in the hallway, yes.

1 J. Robinson - Examination by Mr. Modica

2 Q Now I'm going to ask you about some of the  
3 folks that Mr. Dublino has sued here and recite for you  
4 in part what he's claiming and whether you saw any of  
5 these events as Mr. Dublino claims.

6 So first with Deputy Thompson, do you recall seeing  
7 him as part of the response team?

8 A Yes.

9 Q And do you recall whether Deputy Thompson was  
10 accompanied by his dog, his canine Billy, at that  
11 point?

12 A Yes.

13 Q At any point did you see Billy having any  
14 physical contact with Mr. Dublino?

15 A No.

16 Q What if any physical contact did you see  
17 between Deputy Thompson and Inmate Dublino?

18 A It looked like he grabbed him by the shirt  
19 from the video. I did not physically see it. I just  
20 saw it in the video.

21 Q And were you able to hear any orders that  
22 Deputy Thompson gave to Inmate Dublino?

23 A When I got there, no.

24 Q And by the time you got there when you first  
25 saw Inmate Dublino what if anything do you remember



1 J. Robinson - Examination by Mr. Modica

2 seeing?

3 A He was lying face down on the ground against  
4 the wall.

5 Q And best that you could tell was he resisting  
6 in any way at that point or at any point later?

7 A I believe that's why I ended up leaning over  
8 there because he was resisting to make sure that they  
9 were gathering his arm the right way and not putting  
10 any undue stress on his shoulder or elbow joint.

11 Q And at any point did you hear Inmate Dublino  
12 complain that he was injured in some fashion?

13 A No.

14 Q At any point did you hear Inmate Dublino  
15 claim that he was having difficulty breathing?

16 A No.

17 Q Now, we observed earlier that the response  
18 team included Sergeant Justin Biegaj. Tell me that  
19 again. I'm going to mess that up ten times. Sorry.

20 A Biegaj.

21 Q Biegaj. All right. I have not deposed him  
22 yet. So hopefully I'll get it right by the time I  
23 depose him. So Biegaj. All right.

24 A Biegaj. Say it fast.

25 Q Biegaj. All right. I appreciate that.

1 J. Robinson - Examination by Mr. Modica

2 Thanks for your patience with me. I appreciate that.

3 A Uhm-uhm.

4 Q Mr. Dublino alleges that Sergeant Biegaj  
5 stomped and stepped on him while he was on the ground  
6 targeting his head and his back. Did you see any  
7 behavior like that?

8 A No.

9 Q He also alleges that Sergeant Biegaj put his  
10 knee on his back, meaning Dublino's back. Did you see  
11 any contact between Sergeant Biegaj's knee and any part  
12 of Mr. Dublino's body?

13 A No.

14 Q You identified Deputy Wilson.

15 Do you recall whether you saw Sergeant Robert Dee  
16 in the group of folks that responded that day?

17 A Yes.

18 Q And can you confirm that he was part of that  
19 response team?

20 A Yes.

21 Q And Inmate Dublino alleges that Sergeant Dee  
22 and Deputy Wilson grabbed his arms and his hands, bent  
23 them in abnormal positions with extreme pressure which  
24 injured himself. Any recollection about their behavior  
25 and that allegation?

1 J. Robinson - Examination by Mr. Modica

2 A No.

3 Q Now I'll represent to you - and I can run the  
4 video back if you'd like - that from the time that  
5 Deputy Thompson arrived and got Inmate Dublino on the  
6 floor until the time that he arose in the manner that  
7 we watched earlier it was about a minute and twenty  
8 seconds.

9 A Okay.

10 Q Can you give me a sense as to how long if at  
11 all it typically takes to handcuff someone in a  
12 circumstance like that?

13 A If somebody is actively resisting and the  
14 position against the wall that he was in it could be  
15 very difficult. So, I mean, it's -- it's tough to give  
16 a time.

17 Q Is there -- could you give me an estimate of  
18 if there was no -- if someone was not resisting how  
19 long would you expect it to take to put on handcuffs in  
20 the manner we described it earlier, so behind the back,  
21 palms facing away from the center of the body, how long  
22 would you expect that would take?

23 A Start to finish less than twenty seconds.

24 Q All right. Sergeant Matthew Cross, was he  
25 among the folks that participated as the response team?

1 J. Robinson - Examination by Mr. Modica

2 A Yes.

3 Q And Inmate Dublino alleges that Sergeant  
4 Cross stood directly over him and stomped on his legs,  
5 his ankles and his feet while he was on the floor. Did  
6 you see any behavior by Sergeant Cross of that nature?

7 A No.

8 Q Two deputies as well are named in this  
9 lawsuit, Peter Giardina and Deputy Gelster. I want to  
10 ask you a little bit about them.

11 So Inmate Dublino alleges that he was picked off  
12 the ground by his arms and his shoulders and escorted  
13 to the infirmary by those deputies. I think in the  
14 video we identified Deputy Gelster.

15 Do you remember did you see Dr. Giardina as well?

16 A Yes.

17 Q And he alleges that on the way to the  
18 infirmary that you ordered them to wrench -- quote,  
19 "wrench him," which Inmate Dublino describes as bending  
20 his arms and his wrists with pressure into the  
21 handcuffs. So can you address that? Is that something  
22 that you did?

23 A No.

24 Q Do you recall giving Deputies Giardina and  
25 Gelster any instructions as they accompanied him to the

1 J. Robinson - Examination by Mr. Modica  
2 infirmary relative to Inmate Dublino?

3 A The only instruction that I gave and I don't  
4 know if Officer -- or Deputy Giardina was part of it  
5 was, "When you pick him up do not lift him up by the  
6 chain." That was it.

7 Q And by the chain you're referring to the  
8 chain that connects the handcuffs?

9 A Correct.

10 Q And why did you give that instruction?

11 A Because sometimes people get a little wound  
12 up and they don't get people up off the ground properly  
13 and I'm here to prevent something like this from  
14 happening from people getting into trouble.

15 Q So meaning that the officers and deputies  
16 wanted to pick the inmate up correctly so they don't  
17 get in trouble but also that they don't injure the  
18 inmate I'm assuming --

19 A Correct.

20 Q -- or injure themselves?

21 A Correct.

22 Q Now do you recall did you accompany Deputies  
23 Giardina and Gelster and Inmate Dublino to the  
24 infirmary?

25 A I stated earlier I don't believe I got on the

1 J. Robinson - Examination by Mr. Modica  
2 same elevator. We'll have to watch that end of the  
3 video, but I do not recall going to medical. I could  
4 be wrong, but I don't recall accompanying those three  
5 to medical.

6 Q I'll represent to you that there were a  
7 number of photos taken of Inmate Dublino after this  
8 interaction. Were you present when those photos were  
9 taken?

10 A I don't believe so.

11 Q If I showed you the photos would they help  
12 you remember whether you were present at all?

13 A I have no idea.

14 Q All right.

15 A You can show them to me.

16 Q Sure. It can't hurt. All right. So --  
17 okay. Let me show you what has been marked as  
18 Deposition Exhibit D. Can you see that photograph?

19 A Yes.

20 Q Does looking at that photograph help you  
21 remember whether you were present when this photograph  
22 was taken?

23 A No.

24 Q And is it correct that depicted in this  
25 photograph on the left is Deputy Gelster?

1 J. Robinson - Examination by Mr. Modica

2 A Correct.

3 Q And on the right is Deputy Giardina?

4 A Correct.

5 Q And Inmate Dublino in the middle?

6 A Yes.

7 Q I show you what we've marked as Deposition  
8 Exhibit E. Same question. Does looking at that photo  
9 help you remember whether you were present when it was  
10 taken?

11 A No.

12 Q Showing you what we've marked as Deposition  
13 Exhibit F. Same question. Does that help you remember  
14 whether you were present when these photos were taken?

15 A No.

16 Q And there's only one more. Showing you  
17 what's been marked as Deposition Exhibit G. Does that  
18 photograph help you remember whether you were present  
19 when this photograph was taken?

20 A No.

21 Q In looking at Deposition Exhibit G it's a  
22 photograph of Inmate Dublino -- I'll represent to you  
23 it's a photograph of the hands of Inmate Dublino.

24 Did you at any point look at his hands in the  
25 altercation in the hallway or at any point later that

1 J. Robinson - Examination by Mr. Modica  
2 day?

3 A No.

4 Q Do you know whether after Inmate Dublino was  
5 initially cuffed whether those cuffs were changed in  
6 any way, meaning taken on or off?

7 A No.

8 Q I'll represent to you that part of the  
9 photographs clearly the last one shows his hands  
10 without handcuffs. Do you know who took the handcuffs  
11 off from when he was first subdued until the time the  
12 photographs were taken?

13 A No.

14 MR. MODICA: Okay. I do not have anything  
15 else, Sergeant. I appreciate your cooperation and your  
16 patience with me.

17 And I don't know if Erin has any questions  
18 for you, but if she doesn't we can dismiss you.

19 MS. MOLISANI: No questions here. Thank you.

20 MR. MODICA: Perfect. Thank you, Sergeant.  
21 I appreciate it.

22 THE WITNESS: You're welcome.

23 \* \* \*

24

25



J. Robinson - Examination by Mr. Modica

REPORTER CERTIFICATE

I, Brittany Needham, do hereby certify that I did  
report in stenotype machine shorthand the proceedings  
held in the above-entitled matter;

Further, that the foregoing transcript is a true  
and accurate transcription of my said stenographic  
notes taken at the time and place hereinbefore set  
forth.

Dated 7/12/21

At Rochester, New York

S/ Brittany Needham

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Brittany Needham

J. Robinson - Examination by Mr. Modica

WITNESS CERTIFICATE

ORIGINAL

STATE OF NEW YORK )

COUNTY OF )

I, JACK ROBINSON, do hereby certify that I have read the transcript of my testimony as taken under oath on Thursday, June 10, 2021 and that said transcript is a true, complete and correct record of what was asked, answered and said during said deposition, and that the answers on record therein, and as may be modified in conformity with the attached errata sheet, are true and correct.

Subscribed and sworn to before me

this \_\_\_\_\_ day of \_\_\_\_\_, 2021

Notary Public

1 J. Robinson - Examination by Mr. Modica

2 In the Matter of:

3 UNITED STATES DISTRICT COURT

4 WESTERN DISTRICT OF NEW YORK

ORIGINAL

----- X

5 MARK T. DUBLINO,

Plaintiff

6 -vs-

SGT. JUSTIN BIEGAJ, SGT. ROBERT DEE, DEPUTY

7 BRIAN THOMPSON, DEPUTY FRANK GELSTER,

SGT. MR. CROSS, SGT. MR. ROBINSON,

8 DEPUTY MR. P. GIARDINA, & DEPUTY SHAWN WILSON,

Defendants

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Case No. 19-CV-6269-DGL-MJP

9 Errata sheet for the examination before trial of JACK  
10 ROBINSON taken on Thursday, June 10, 2021.

11	PAGE	LINE	REMARKS
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